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Located in Plano, Texas

Top 10 Questions about Special Needs Trusts

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2024

CASE STUDY #1

- Izzy



CASE STUDY #1

- Izzy-lost benefits
- Money used up for her care in two years
- Regained benefits
 - Left only with \$943 p/mo
 - Medicaid only
- Quality of life?

CASE STUDY #2

Andrew



CASE STUDY #2

- Andrew
- Susan died, left all to husband
- Husband remarried, kept money
- Andrew left with SSI/Medicaid
- Parents wishes not carried out

CASE STUDY #3

- Kyle



CASE STUDY #3

- Trustee is out-of-state uncle
- Didn't understand Kyle
- No support team or local person
- Removed from job, group home
- Loss of friends, familiar surroundings

QUESTION #1

- **WHAT GOVERNMENT BENEFITS ARE AVAILABLE?**

Question #1: WHAT GOVT' BENEFITS ARE AVAILABLE?

- **Supplemental Security Income (SSI)**
 - \$943 p/month for food and shelter
- **Medicaid:** Health care
- Medicaid waiver programs
 - Attendant, respite, therapy, residential, supplies

Question #1: WHAT GOVT' BENEFITS ARE AVAILABLE?

- **Eligibility Requirements for SSI/Medicaid:**
 - Disabled
 - Low income/limited resources
- Medicaid waivers: different requirements

Question #1: WHAT GOVT' BENEFITS ARE AVAILABLE?

- **SSI/Medicaid financial eligibility**
 - < \$2,000 resources
 - < \$2,000 monthly income

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- **Monthly income:**
 - < \$1,550 for SSI
 - < \$2K for Medicaid
- Income = food and shelter, cash, asset that can be converted to food and shelter
- Deeming
- \$1 of SSI = Medicaid eligibility

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- In-kind support and maintenance is income
- Someone provides food and shelter
- 1/3 reduction in SSI
- Unless
 - Pay rent
 - Pay pro rata share
 - Run through ABLE account

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- **Resources, assets:**
- < \$2,000 countable resources
 - Not counted: home, car, personal items, 529 education account
 - Is counted: bank accounts, UTMA accounts (age 21), investments, real estate

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- **When parent dies or takes SS Retirement**
 - If child disabled prior to 22
 - Disabled Adult Child benefit
 - Half of parent's SS check
 - After 2 years eligible for Medicare
 - Can get Medicaid and Medicare

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- Over 40 Medicaid programs
- Different eligibility requirements
- Provide different services
- Get child on list ASAP

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- Not needs-based:
 - SSDI
 - Medicare

Question #1: WHAT GOV'T BENEFITS ARE AVAILABLE?

- Need Gov't Benefits?
 - Services only through Medicaid
 - What programs/services available years from now?
 - Leverage assets
 - Keep options open

QUESTION #2

- **WHAT MAKES A SPECIAL NEEDS TRUST SO SPECIAL?**

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- Govt' benefits insufficient
- Resources
- Desire to supplement
- Loss of benefits

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **SNT not countable resource**
 - Properly drafted
 - Correctly distributed
- Supplement, not supplant
- Result

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **Distributions not income to child**
 - If done correctly

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **Trust** = Blueprint for caring for your child
 - People
 - Money
 - Safety net

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **Benefits not only reason for SNT**
- Flexibility for changed circumstances
- Operates as regular trust if not on benefits
- Manages assets and distributions for child
- Advocacy and asset protection

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **Two types of SNTs**
- **First Party SNT**
 - Created with individual's own money
 - Inheritance, child support, savings
 - Medicaid payback provision

Question #2: WHAT MAKES A SPECIAL NEEDS TRUST SPECIAL

- **Two types of SNTs**
- **Third Party SNT**
 - Created with someone else's money
 - Has no Medicaid payback

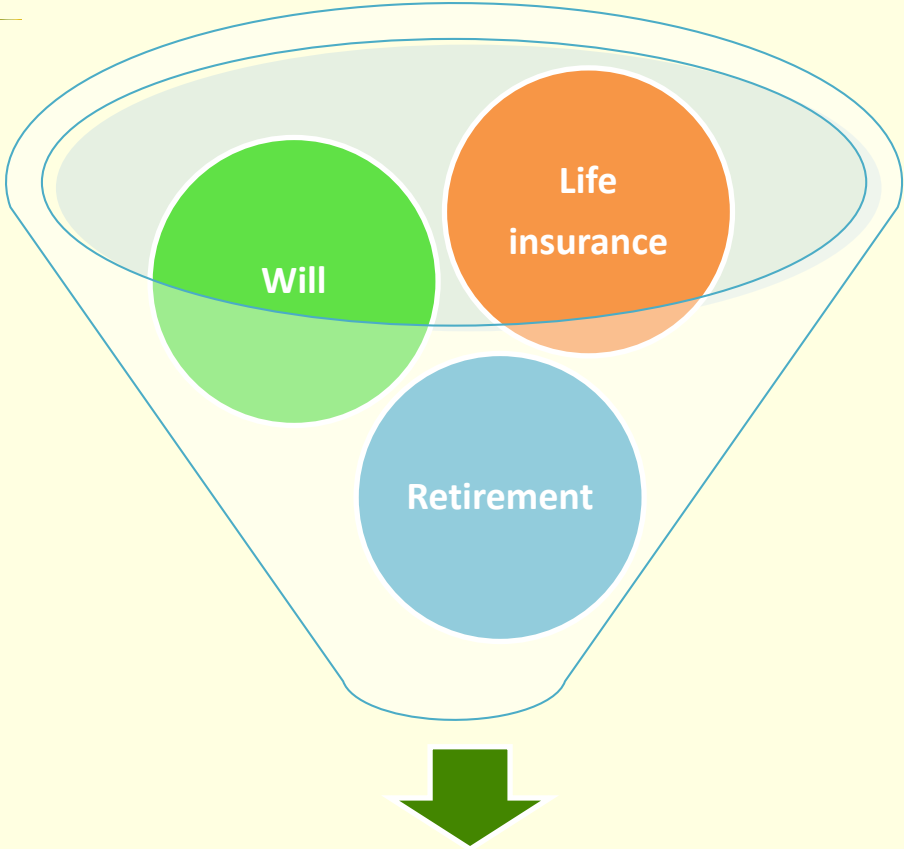
QUESTION #3

- **HOW DOES MONEY GET INTO THE SPECIAL NEEDS TRUST?**

Question #3: HOW DOES MONEY GET INTO THE SPECIAL NEEDS TRUST?

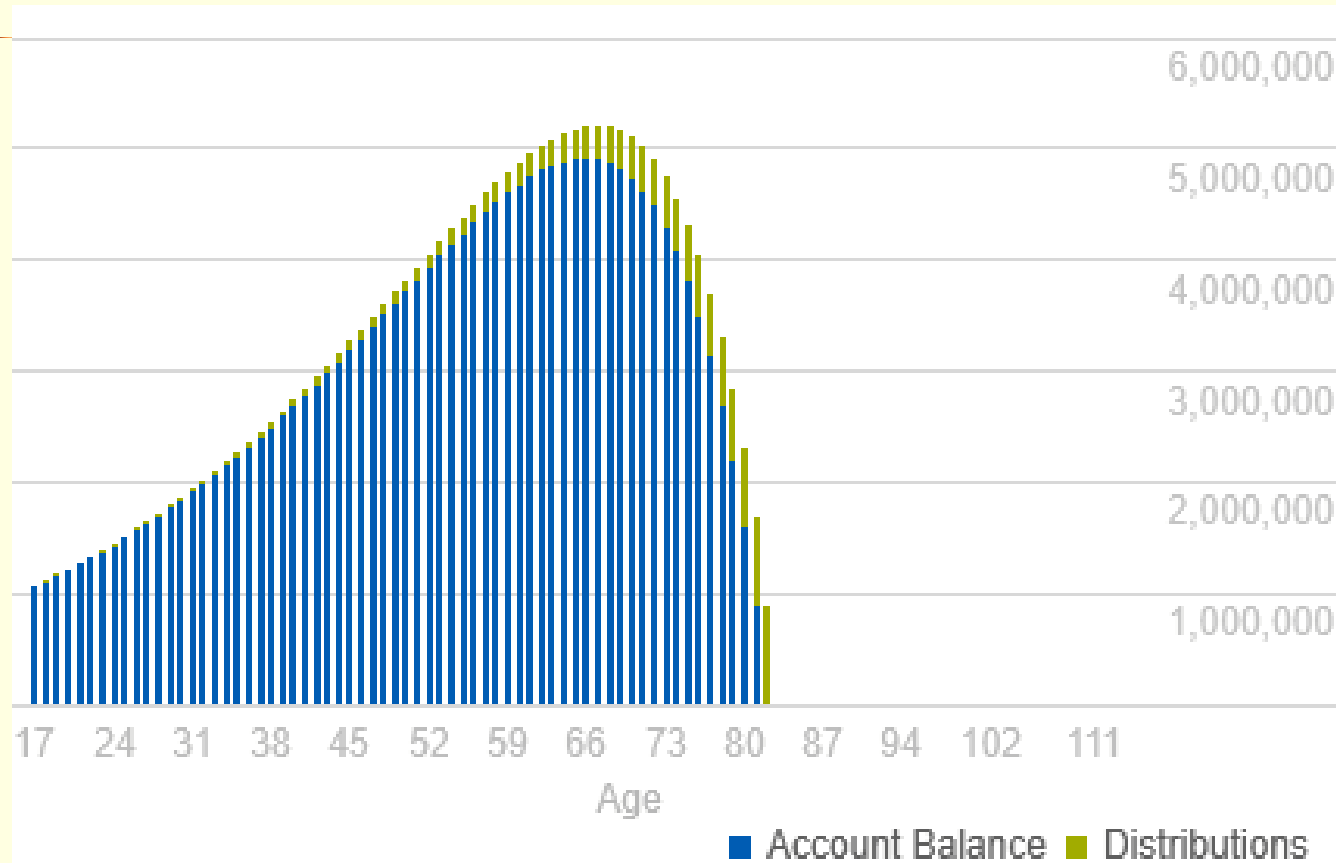
- Will
- Life Insurance
- Retirement account
- Gift
- Child support

Question #3: HOW DOES MONEY GET INTO THE SPECIAL NEEDS TRUST?



SPECIAL NEEDS TRUST

IRAs AND SNTs



IRA value: \$1,000,000
Parent date of birth: 01-01-1960
Child date of birth: 01-01-2000
Date of death: 05-01-2017

IRAs AND SNTs

- Retirement Plan Trust/SNT
- Tax-deferred growth
- Distributions don't have to disqualify from benefits
- Operates as SNT

Question #3

- Child Support
- After age 18 counts against child as income
 - \$950 child support = loss of SSI and Medicaid
- To avoid loss of benefits, decree must order support be paid into SNT
- First Party SNT

QUESTION #4

- **WHAT CAN THE TRUST FUNDS BE USED FOR?**

Question #4: WHAT CAN THE TRUST FUNDS BE USED FOR?

- Distributions
 - No cash/debit cards
 - Nothing paid by gov't benefits



Question #4: WHAT CAN THE TRUST FUNDS BE USED FOR?

- Distributions:

- ✓ Personal
- ✓ Social/Recreation
- ✓ Entertainment
- ✓ Education
- ✓ Medical



Question #4: WHAT CAN THE TRUST FUNDS BE USED FOR?

- Trustee pays expenses directly—3rd party
- Credit card
 - Trustee pays off each month
- TrueLink credit card

QUESTION #5

- **WHO WILL BE MY TRUSTEE?**

QUESTION #5: WHO WILL BE MY TRUSTEE?

- Trustee duties:
 - Invest properly
 - Understands how distributions affect benefits
 - Distribute for child's care
 - Keep financial records
 - File tax return

QUESTION #5: WHO WILL BE MY TRUSTEE?

- Reliable, integrity, able to learn and implement SNT rules
- Family member, friend
- Professional assistance
- Corporate trustees

QUESTION #5: WHO WILL BE MY TRUSTEE?

- ARC Pooled Trust
 - Subtrust for your child
 - Arc serves as Trustee

QUESTION #5: WHO WILL BE MY TRUSTEE?

- Also Trust Advisory Committee
- Best Interest Committee

QUESTION #6

**WHAT HAPPENS IF I DON'T HAVE A SPECIAL
NEEDS TRUST?**

Question #6: WHAT HAPPENS IF I DON'T HAVE A SPECIAL NEEDS TRUST?

- No inheritance
- Inherit outright
- Leave assets to other family members

QUESTION #7

- **WHAT ELSE DO I NEED?**

QUESTION #7: WHAT ELSE DO I NEED?

- Will
- Designate guardian
- Beneficiary designations
- Coordinate with other family members
- Powers of attorney for parents

QUESTION #7: WHAT ELSE DO I NEED?

- Holistic approach
- SNT alone not sufficient

Question #7: ABLE ACCOUNTS

- Up to \$100,000 (\$18,000 per year) w/out affecting benefits
- Disabled/ use for disability services
- Medicaid Payback!

Question #8: ABLE ACCOUNTS

- Established for person:
 - Disabled/blind before age 26
- Texas: texasable.org—new program
- Ohio ABLE account—stableaccount.com

Question #8: ABLE ACCOUNTS

- Creation of Account:
 - Individual w/disability or someone else opens
 - Beneficiary is owner (regardless of signatory authority)
 - Limit one account per beneficiary
 - Anyone can contribute

ABLE ACCOUNTS

- Funding Account:
 - Limit \$18K per year (annual gift tax exclusion)
 - Only \$100K exempt for SSI
(suspend SSI but retain Medicaid)
 - Up to \$500K (state limit for 529 education plan) (if Medicaid only)

Question #8: ABLE ACCOUNTS

- Allowable expenses:
 - Education
 - Housing & transportation/living expenses
 - Health & wellness
 - Assistive technology/personal support
 - Legal fees

Question #8: ABLE ACCOUNTS

- ABLE Account and SSI
 - Interest not income to beneficiary
 - Distribution not income to beneficiary—even for food/shelter
 - Provide records to SSA

Question #8: ABLE ACCOUNTS

- Major Drawback:
 - Medicaid Payback Provision
 - After creation of account
 - 3rd party SNT has no Medicaid payback, QDT
 - Rollover 529 to ABLE—now allowed if same beneficiary

Question #8: ABLE ACCOUNTS

- When to Use:
 - Individual saves own earnings
 - Small gifts/inheritances
 - Rollover 529 to ABLE if same beneficiary
 - Pay rent

Question #8: ABLE ACCOUNTS

- Conclusion
 - Low cost
 - New tool for toolbox
 - Does not replace SNT in most circumstances

QUESTION #9

- **WHEN DO I NEED TO CREATE A SNT?**
 - Prior to death or disability
 - Not related to guardianship

QUESTION #10

- **WHAT IS THE RESULT OF WISE PLANNING?**

QUESTION #10: WHAT IS THE RESULT OF WISE PLANNING?

- Financial plan to pay for child's care
- Support team in place
- Instructions for care
- Retain eligibility for gov't benefits
- Wellbeing/more fulfilling life

CASE STUDY #1

- Izzy



CASE STUDY #2

Andrew



CASE STUDY #3

- Kyle



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